

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ADAM L. MALINSKI,

Plaintiff,

v.

Case No. 07-CV-957

SOCIAL SECURITY ADMINISTRATION,

Respondent.

ORDER

Pro se plaintiff Adam L. Malinski moves the court pursuant to Fed. R. Civ. P. 59(e) to reconsider its decision dated January 11, 2008, dismissing his complaint without prejudice for failure to prosecute. Rule 59(e) gives the district court an opportunity to correct manifest errors of law or fact. *Divane v. Krull Elec. Co.*, 194 F.3d 845, 850 (7th Cir. 1999). A party can invoke the rule to direct the court's attention to matters such as newly discovered evidence or a manifest error of law or fact. *See Russell v. Delco Remy*, 51 F.3d 746, 749 (7th Cir. 1995).

In his motion for reconsideration, Malinski states that the prison staff delayed processing his request to send the initial partial filing fee to the clerk of court. However, Malinski's complaint was not dismissed because he was late in submitting the initial partial filing; it was dismissed because no fee has ever been submitted. Because Malinski does not introduce new evidence or demonstrate that the court committed any manifest error of law or fact in its decision dated January 11, 2008, the court will deny his motion for reconsideration.

Accordingly,

IT IS ORDERED that the plaintiff's motion for reconsideration (Docket # 10) be and the same is hereby **DENIED**;

IT IS FURTHER ORDERED that the plaintiff's motion for recusal (Docket # 9) be and the same is hereby **DENIED** as moot.

Dated at Milwaukee, Wisconsin, this 29th day of January, 2008.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line. The signature is stylized with large, sweeping loops.

J.P. Stadtmueller
U.S. District Judge